

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Def#1) Mathew BATTAGLIA

Def#2) Sebastian HERNANDEZ-Hernandez

Def#3) Marsha WOODS

Defendant(s)

Magistrate Case No.

COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii) and (v)

(v) (II)-Transportation of Illegal

Aliens and Aiding and Abetting

FILED
'08 MAY 13 90 AM 11:32

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

The undersigned complainant, being duly sworn, states:

COUNT 1

On or about **April 30, 2008**, within the Southern District of California, defendants **Mathew BATTAGLIA, Sebastian HERNANDEZ-Hernandez and Marsha WOODS** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that the alien namely, **Luis Manuel LORENZANA-Rodriguez** had come to, entered and remained in the United States in violation of law, did transport and move, said alien within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii) and (v) (II).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2nd DAY OF MAY 2008



NITA L. STORMES
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Def#1) Mathew BATTAGLIA,****Def#2) Sebastian HERNANDEZ-Hernandez,****Def#3) Marsha WOODS****PROBABLE CAUSE STATEMENT**

Furthermore, the complainant states that **Luis Manuel LORENZANA-Rodriguez** is a citizen of a country other than the United States; that said the alien has admitted that he is deportable; that his testimony is material, that it is impracticable to secure his attendance at the trial by subpoena; and that he is a material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On April 30, 2008, at approximately 12:10 p.m., Supervisory Border Patrol Agent J. Wallace was on anti-smuggling patrol in the area of Otay Lakes, in Chula Vista, California. Agent Wallace heard Senior Patrol Agent C. Jones request assistance in apprehending two suspected illegal aliens he had observed walking down a hill towards Otay Lakes County Park located on Wueste Road. This area is approximately two miles east of the Otay Mesa California, Port of Entry and approximately 1 1/2 miles north of the United States/Mexico International border. The park is at the base of the Otay Mountain and near several canyons. This area is notorious for the presence of illegal aliens attempting to further their way north into the United States after crossing over Otay Mountain. Alien smugglers frequent the park and pick up these illegal aliens regularly. The park has parking and picnic areas that allow the smugglers to blend in with legitimate park goers.

Agent Wallace responded toward that location and heard Agent Jones broadcast that the two suspected illegal aliens had just gotten into the back seat of a vehicle and were leaving the park. Agent Wallace arrived at Wueste Road and informed agents that he was laying out stop sticks to prevent the vehicle from escaping the area. Agent Wallace could hear Agent Jones describe the vehicle as a black four door vehicle. Agent Wallace observed two vehicles round the corner in front of his vehicle and the deployed stop sticks. A white sedan was being closely followed by a black vehicle. Agent Wallace believed that the black vehicle was the smuggling load. Agent Wallace ordered both vehicles to stop and they came to a stop short of the stop sticks. Agent Wallace had the white vehicle move to the side of the road.

As he did so, the driver of a black Mazda 3, later identified as defendant #1 **Mathew BATTAGLIA** exited the driver's door of the black vehicle and put his hands up in the air. BATTAGLIA began to scream at Agent Wallace that the rear seat passenger of the vehicle had a gun and had carjacked him. BATTAGLIA advanced on Agent Wallace and Agent Wallace ordered BATTAGLIA to the ground at gun point. The front seat passenger, later identified as defendant #3 **Marsha WOODS**, exited the vehicle and began screaming at Agent Wallace that they were being carjacked. Agent Wallace ordered WOODS to the ground at gun point. The rear seat passenger behind the driver, later identified as defendant #2 **Sebastian HERNANDEZ-Hernandez**, then exited the vehicle and took two steps toward Agent Wallace and went to the ground. The fourth passenger, later identified as **Louis LORENZANA-Rodriguez**, seated behind WOODS exited the passenger side of the vehicle as was also ordered to the ground by Agent Wallace. Agent Wallace did not initially notice either of the rear seat passengers as they had been crouched down in their seats and only popped up after the vehicle came to a stop.

Agent C. Jones and R. Delagarza arrived as cover and assisted in securing all four passengers of the vehicle. Agent Jones asked LORENZANA and HERNANDEZ to state their citizenship and each admitted to being citizens and nationals of Mexico, illegally present in the United States. Agent Jones placed both subjects under arrest. Agent Wallace determined that BATTAGLIA was a United States citizen and on active parole. Agent Wallace also determined that WOODS was a United States citizen on active probation and a registered narcotics offender. Agent Wallace placed both subjects under arrest for alien smuggling.

CONTINUATION OF COMPLAINT:**Def#1) Mathew BATTAGLIA,****Def#2) Sebastian HERNANDEZ-Hernandez,****Def#3) Marsha WOODS**

Agent Jones searched the interior of the vehicle and discovered a small silver Raven Arms .25 caliber pistol, hidden under a bag of fresh donuts, between the drivers seat cushion and center console mounted on the floor of the vehicle. All four subjects were transported to Chula Vista Station for processing.

DEFENDANT STATEMENT: Mathew BATTAGLIA

Defendant #1 **Mathew BATTAGLIA** was advised his Miranda rights which he understood and was willing to answer questions without the presence of an attorney. BATTAGLIA stated that he is a United States citizen and that he was born in San Diego, California. BATTAGLIA stated that he became involved in the smuggling of undocumented aliens from his father who smuggles aliens. He stated that his father had once taken him to Otay Lakes a couple of months ago to show him where he picks up the illegal aliens. On that occasion, BATTAGLIA stated that he, his father, and BATTAGLIA's girlfriend Marsha WOODS were detained by Border Patrol agents because a group of aliens loaded into their car.

BATTAGLIA said that yesterday he received a call from another alien smuggler who is a friend of BATTAGLIA's father. He stated that this subject asked him if he wanted to make some money doing what BATTAGLIA's father does. BATTAGLIA said that he understood that this meant going to Otay Reservoir and picking up and transporting undocumented aliens. He further stated that he had been told that he would be picking up two persons and that he understood that these persons did not have documents allowing them to enter the United States legally. BATTAGLIA said that the agreement was that he was to be paid \$200.00 (USD) for the smuggling event. BATTAGLIA said that he was told to go to "the spot your dad showed you" which he knew meant the park by Otay Lakes. BATTAGLIA stated that he was given directions as to how to get there.

When asked about the gun, BATTAGLIA stated that he had brought the gun for personal protection, as he had never done this before, and did not know who he was picking up. BATTAGLIA stated that they drove to the park alongside Otay Lakes and got out and walked around, waiting for the aliens to get in the car. BATTAGLIA stated that they watched two male subjects, whom he assumed were the two aliens, approach the wrong car, and set off the car's alarm. BATTAGLIA said he recognized one of the two subjects as a guy named Sebastian, who he has seen at his Dad's house. BATTAGLIA said that the two aliens kept walking, approached Marsha's car, and then got inside, sitting in the back seat. He said that he didn't want to get in the car, and told Sebastian to get out, but he did not. BATTAGLIA said that he just decided to get in and drive away. While doing so, BATTAGLIA claimed that Sebastian had told him to say that that it was his gun and that he had car-jacked them. BATTAGLIA said that he had the gun in his hand, but didn't give it to Sebastian and instead tucked it back between his driver's seat and the center console. As he drove out of the parking lot, BATTAGLIA said that he told the two aliens in the back of the car to duck down out of sight.

As they were trying to drive away, BATTAGLIA said that they were stopped by a plainclothes agent. BATTAGLIA said that he then told the agent that he had been carjacked and that the aliens had a gun. He admitted that this had been a bad idea, in retrospect, and could have resulted in someone getting hurt.

DEFENDANT STATEMENT: Sebastian HERNANDEZ-Hernandez

Defendant #2 Sebastian HERNANDEZ-Hernandez was advised his Miranda rights which he understood and was willing to answer questions without the presence of an attorney. HERNANDEZ stated that he is a Mexican national and that he is illegally present in the United States. He stated that he does not have, nor has he ever had, any immigration documents allowing him to enter or be in the United States legally.

CONTINUATION OF COMPLAINT:**Def#1) Mathew BATTAGLIA,****Def#2) Sebastian HERNANDEZ-Hernandez,****Def#3) Marsha WOODS**

HERNANDEZ explained that he got involved in the smuggling of undocumented aliens about 8 or 9 years ago. HERNANDEZ stated that he met an alien smuggler, known as "Armando" who offered him work as a foot guide, crossing undocumented aliens on foot into the United States. HERNANDEZ stated that he agreed, and began working for "Armando" as a foot guide. He stated that he is paid \$300.00 (USD) for each undocumented alien whom he successfully smuggles into the United States. He said that he has been apprehended between 10 and 15 times by the Border Patrol while guiding, and that he has successfully crossed groups of undocumented aliens on about 20 occasions. HERNANDEZ stated that he has always crossed the aliens in the Otay Mountain area. He stated that the groups are always between 1 and 3 undocumented aliens. HERNANDEZ said that he is always picked up on the northern side of Otay Mountain by the same load driver, whom he stated was Matt BATTAGLIA's father, whom he knows as "Al".

As relates to today's smuggling event, HERNANDEZ stated that he was crossing one undocumented alien. He stated that he was aware that this person did not have documents allowing him to enter the United States legally. HERNANDEZ said that he and the smuggled alien crossed into the United States yesterday, in the "Nido de las Aguilas" area. He said that he called "Al's" son, Matt during the journey, as he was to have picked them up. Matt told him that he would be coming in a black car.

HERNANDEZ said that Matt produced a pistol and tried to hand it to him, saying that if they were arrested he should say that it was his gun, and that he had carjacked them at gunpoint and forced them to take him. HERNANDEZ said that he told Matt "No" and that he was unwilling to do that. He said that Matt then put the gun back between his seat and the center console. HERNANDEZ was shown photo lineup "A" and identified photograph #2 as Mathew BATTAGLIA, the driver of the load vehicle.

DEFENDANT STATEMENT: Marsha WOODS

The defendant stated that she is a United States citizen and that she was born in Cincinnati, Ohio. The defendant stated that she has known Matthew BATTAGLIA for a couple of months and that the two of them are boyfriend and girlfriend. She further states that she knows Mathew BATTAGLIA's father, whose name is Al BATTAGLIA. The defendant stated that Al is an alien smuggler and that she met him just prior to meeting Matt. She stated that as far as she knows Al works as a load driver, picking up and transporting illegal aliens, and that he works for a lady whose given name is Martha.

CONTINUATION OF COMPLAINT:**Def#1) Mathew BATTAGLIA,****Def#2) Sebastian HERNANDEZ-Hernandez,****Def#3) Marsha WOODS**

The defendant stated that she and Matthew BATTAGLIA had been living out of a camper and her car in Santee and had no money whatsoever. The defendant said that Matthew BATTAGLIA received a call on the morning asking him if he wanted to make some money smuggling undocumented aliens. He saw it as a chance to make some money and get them back on their feet. In reference to today's event, **Marsha WOODS** said that Matthew BATTAGLIA told her what he wanted to do and that they argued about it because she had told him not to. The defendant said that she couldn't exactly remember how much BATTAGLIA was going to get paid, but that she thought it had been \$200.00 (USD). The argument ended with BATTAGLIA insisting that he was going to do it. The defendant said that she felt guilty because he was doing it to try to take care of her.

The defendant said that from what she understood, Matt was going to pick up one illegal alien at a park near Otay Lakes and then take him somewhere in San Diego. The defendant said that Matt was going to use her car and that she decided to go with him.

WOODS said that Matt had a pistol in his hand and one of the aliens and Matt were talking. After a moment she also said that the aliens had had the gun, and that the gun had been theirs, keying off of what Matt was saying. WOODS acknowledged that lying about who possessed the weapon had been a really bad idea, and said that she was sorry.

MATERIAL WITNESS STATEMENT:

Material witness **Luis Manuel LORENZANA-Rodriguez** stated he is a citizen of Mexico and does not possess any Immigration documents allowing him to remain or enter the United States legally. LORENZANA stated that he was going to pay \$1,500.00 (US) to be smuggled into the United States. LORENZANA was shown a set of six Polaroid photos numbered 1 through 6. LORENZANA was able to identify photo #4 as defendant #2 Sebastian HERNANDEZ-Hernandez, as the foot guide who guided him. LORENZANA was then shown two separate I-378 forms. On one of I-378 forms LORENZANA identified photo #2 as defendant #1 Mathew BATTAGLIA, as the driver of the vehicle and on the other I-378 form, LORENZANA identified photo #5 as defendant #3 Marsha WOODS, as the female passenger in the vehicle.